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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/917,360

07/27/2001

David A. Kraft

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7590

06/17/2004

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EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/917,360

Applicant(s)

KRAFT ET AL.

Examiner

Jane J Rhee

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27,28,30-33 and 36-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27,28,30-33 and 36-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/04/2004 has been entered.

### ***Rejections Repeated***

2. The 35 U.S.C. 102(e) rejection anticipated by Shih of claims 28 and 39 are repeated for the reasons previously made in Paper 9.

### ***Response to Arguments***

3. In absence of 102(e) argument anticipated by Shih by the applicant, the rejection as set forth above is maintained.

Thus, in the absence of any evidence to the contrary, it remains the Examiner's position that the claimed invention is anticipated over the prior art of record discussed above.

### ***Withdrawn Rejections***

4. The 35 U.S.C. 102(b) rejection anticipated by MacLaine et al. of claim 34 is withdrawn due to applicant's amendment of 3/04/04.

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5. The 35 U.S.C. 103(a) rejection over MacLaine et al. in view of Winter of claims 21,25-26,28,30,35,37,39,41-42,44-45 are withdrawn due to applicant's amendment of 3/04/04.
6. The 35 U.S.C. 103(a) rejection over MacLaine et al. in view of Winter and in further view of Ehrhart et al. of claims 22-24,31-33 are withdrawn due to applicant's amendment of 3/04/04.

### ***New Rejections***

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 28,30,37,39,41-42,44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaine et al. in view of Webster's New World Dictionary.

MacLaine et al. discloses a floor covering (col. 1 line 21) comprising two resilient sheet elements having substantially the same structure (figure 1 number 1 and 2 col. 2 line 1), each element comprising a first major surface and a second major surface (figure 1 number 1 and 2), and a gluing surface interposed between the first major surface and the second major surface (col. 2 line 11-12), the gluing surfaces of the two elements being adjacent (figure 1 number 8), and an adhesive interposed between the gluing surfaces (figure 1 number 8), wherein the surface covering is in the form of a roll

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(figure 2 number 12), with the gluing surfaces being in a plane generally perpendicular to the axis of the roll (figure 1 number 8), the gluing surfaces and adhesive forming a seam (figure 1 number 8), and the thickness of the seam being substantially no greater than the thickness of the elements (figure 1 number 8 and 1,2). MacLaine et al. discloses that the flooring sheet comprises a substrate (col. 2 line 8), foam layer (col. 2 line 7) and a design layer (col.2 line 4).

MacLaine et al. fail to disclose that the gluing surfaces are not perpendicular to the first major surface. MacLaine et al. fail to disclose that the gluing surfaces and adhesive created a seam in the form of a scarf joint. MacLaine et al. fail to disclose that the gluing surfaces are in a plane generally parallel to the axis of the roll.

Webster's new world dictionary teaches that scarf joints are made by notching, grooving, or otherwise cutting the ends of two pieces and fastening them so that they lap over and join firmly into one continuous piece (col. 2, definition of scarf<sup>2</sup>).

Therefore, it is notoriously well known in the art to join two pieces of notched or grooved ends together so that they lap over and join firmly into one continuous piece as taught by Webster's new world dictionary, thus it would have been obvious to one ordinary skill in the art at the time applicant's invention was made to provide MacLaine et al with gluing surfaces that are not perpendicular to the first major surface such as a scarf joint in order to fasten two pieces so they lap over and join firmly into one continuous piece since it is scientifically well known in the art that scarf joints are stronger joints then butt joints because of its larger bonding area.

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Also, when the gluing surfaces create a seam in the form a scarf joint, the gluing surface is inherently in a plane generally parallel to the axis of the roll, therefore, since it is obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine with the notoriously well known scarf joint in order to fasten two pieces so they lap over and join firmly into one continuous piece as taught by Webster's new world dictionary (col. 2, definition of scarf<sup>2</sup>) because its well known in the art that scarf joints are stronger joints than butt joints because of its larger bonding area.

8. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaine et al. and Webster's new world dictionary and in further view of Ehrhart et al. (5140088).

MacLaine et al. and Webster's new world dictionary discloses the surface covering described above. MacLaine et al. and Webster's new world dictionary fail to disclose a radiation curable and UV curable adhesive, wherein the adhesive is cyanoacrylate. Ehrhart et al. teaches resilient vinyl floor coverings (col. 1 lines 15-23) with the adhesive cyanoacrylate for the purpose of preventing the buildup of dirt and penetrations of moisture between the seams of the surface coverings (col. 1 lines 62).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine with the adhesive cyanoacrylate in order to prevent the buildup of dirt and penetrations of moisture between the seams of the surface coverings (col. 1 lines 56-62) as taught by Ehrhart et al.

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9. Claims 27,36,38,40,43,46 rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaine et al. and Webster's new world dictionary in view of Pacione (6298624).

MacLaine et al. and Webster's new world dictionary discloses the surface covering described above. MacLaine et al. and Webster's new world dictionary fail to disclose a seamless top coat layer that covers substantially the entire surface covering component, including the two elements and the seam formed by the adjacent gluing surfaces and the adhesive. Pacione teaches a resilient covering layer that covers the entire surface covering component, including the two elements and the seam formed by adjacent gluing surfaces and adhesive (figure 4 numbers 9,13,15) for the purpose of installing a decorative cover (col. 1 lines 13-17).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine et al. with a covering layer that covers the entire surface covering component, including the two elements and the seam formed by adjacent gluing surfaces and adhesive in order to install a decorative cover (col. 1 lines 13-17) as taught by Pacione.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Ahmad can be reached on 571-272-1487. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee  
June 8, 2004



NASSER AHMAD  
PRIMARY EXAMINER